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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,270	02/21/2002	Dorian Thurston True	42576/254485	6974

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1100 PEACHTREE STREET  
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ATLANTA, GA 30309

EXAMINER

FITZGERALD, JOHN P

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 10/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/080,270

Applicant(s)

TRUE ET AL.

Examiner

John P Fitzgerald

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

## **DETAILED ACTION**

### ***Drawing Objections***

1. The drawings are objected to because Figure 2 is a black and white photograph which poorly depicts the instant invention and its application, specifically, the mounting to a golf cart frame. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification Objections***

2. The use of the trademark VELCRO<sup>TM</sup> has been noted in this application, specifically within the detailed description and within claim 19. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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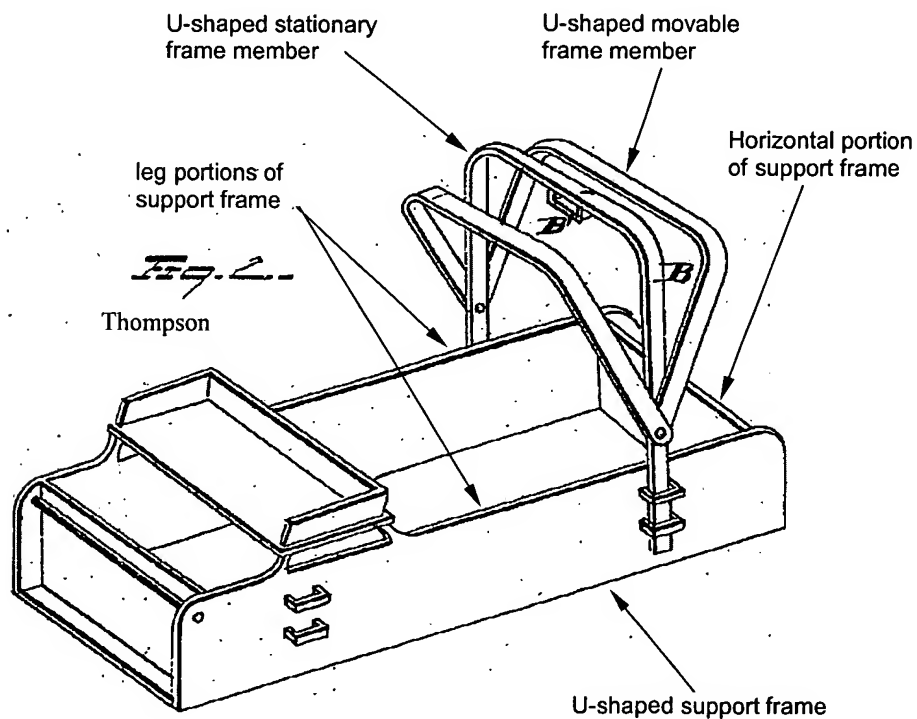
has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. § 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. § 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

4. Claims 1-4, 6 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by Thompson. Thompson discloses an apparatus (Figs. 1-3) for covering a portion of rear compartment of a golf cart, and configured for attachment to a support frame of a golf cart comprising: a stationary member (B) configured for mounting to the support frame member of the golf cart; a movable frame member (Thompson: page 1, col. 2, lines 9-12) configured for mounting to the stationary frame member, and further configured to pivotably rotate over a portion of the rear compartment of the golf cart; and a cover (A) for mounting to the movable frame member rotates over a portion of the rear compartment of the golf cart, the cover covers a portion of the rear compartment of the golf cart; wherein the stationary frame member mounts to a rear portion of the support frame, wherein the stationary frame member connects to a horizontal portion of the support frame; wherein the stationary frame member comprises a U-shaped frame with a horizontal portion and two legs extending relatively perpendicular from the ends of the horizontal portion; wherein the movable frame member comprises a U-shaped frame with a horizontal portion and two legs extending relatively perpendicular from the ends of the horizontal portion; and wherein each leg of the movable frame member mounts to a respective

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leg of the stationary frame member (see Figure 2 below). Note: Functional recitation(s) using the words “for” and “configured for” have been given little patentable weight because they fail to add any structural limitations and thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) (“The manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself.”); In re Otto, 136 USPQ 458, 459 (CCPA 1963). When interpreting functional language, if the prior art is capable of performing the claimed function—even if not directly disclosed—it anticipates. In re Schreiber, 128 F.3d 1473, 1478, 44 USPQ2d 1429, 1432 (Fed. Cir. 1997). See also MPEP § 2114, 2115.



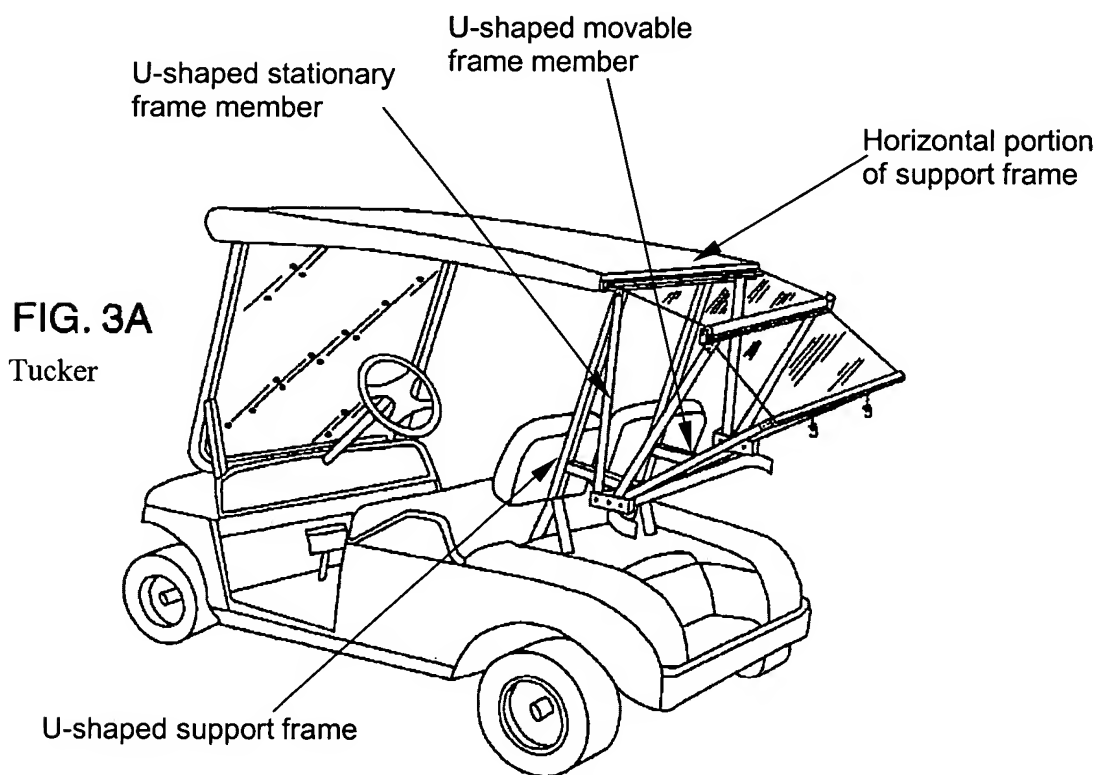
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5. Claims 1-7 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tucker. Tucker discloses an apparatus (Figs. 1-3A) for covering a portion of rear compartment of a golf cart, and configured for attachment to a support frame of a golf cart wherein the support frame supports a hard roof top for the golf cart comprising: a stationary member (6, 10, 1) configured for mounting to the support frame member of the golf cart; a movable frame member (9, 19, 3) configured for mounting to the stationary frame member, and further configured to pivotably rotate over a portion of the rear compartment of the golf cart; and a cover (4) for mounting to the movable frame member rotates over a portion of the rear compartment of the golf cart, the cover covers a portion of the rear compartment of the golf cart; wherein the stationary frame member mounts to a rear portion of the support frame, wherein the stationary frame member connects to a horizontal portion of the support frame; wherein the horizontal portion of the stationary frame member mounts to the support frame of the golf cart; wherein the stationary frame member comprises a U-shaped frame with a horizontal portion and two legs extending relatively perpendicular from the ends of the horizontal portion; wherein the movable frame member comprises a U-shaped frame with a horizontal portion and two legs extending relatively perpendicular from the ends of the horizontal portion; and wherein each leg of the movable frame member mounts to a respective leg of the stationary frame member (see Figure below).

Note: Functional recitation(s) using the words “for” and “configured for” have been given little patentable weight because they fail to add any structural limitations and thereby regarded as intended use language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In re Casey, 370 F.2d 576, 152

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USPQ 235 (CCPA 1967) (“The manner or method in which such machine is to be utilized is not germane to the issue of patentability of the machine itself.”); *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). When interpreting functional language, if the prior art is capable of performing the claimed function—even if not directly disclosed—it anticipates. *In re Schreiber*, 128 F.3d 1473, 1478, 44 USPQ2d 1429, 1432 (Fed. Cir. 1997). See also MPEP § 2114, 2115.



6. Claims 15 and 18 are rejected under 35 U.S.C. § 102(e) as being anticipated by Tucker. Tucker discloses an apparatus (Figs. 1-3A) for mounting to a golf cart with a rear support frame, and configured for attachment to a support frame of a golf cart which supports a portion of a hard roof cover for the golf cart comprising: a stationary main member (6, 10, 1) connected to a horizontal portion of the rear support frame, the stationary main frame comprising a U-shape



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frame with a pair of arm tubers (6, 10), and a connecting tube (1) between the arm tubes, wherein the connecting tube mounts to the rear support frame of the golf cart; a movable frame (9, 19, 3) connected to the stationary main frame, the movable frame comprising a U-shape piece with two arm bars (9, 19), wherein at least one arm bar connects to the stationary main frame; and a connecting bar (3) between the two arm bars, wherein the movable frame can rotate over a portion of the rear compartment of a golf cart; a cover retaining strip connected to the stationary main frame comprising two U-shaped elongated strips (i.e. retainer strips with channel recesses extending along a portion of the elongate strips) that nest together effectively clamping/connecting a portion of a flexible cover (4) within the channel recesses (Tucker: col. 3, lines 9-12) of the retaining strip.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

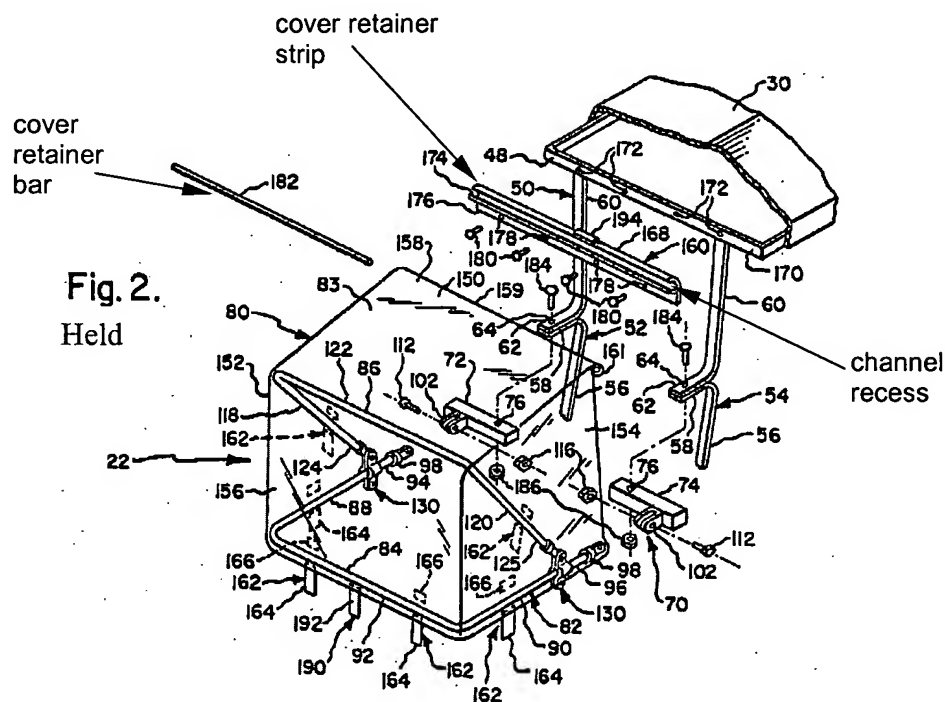
8. Claims 8-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tucker as applied to claim 1 under 35 U.S.C. § 102(e) above, and further in view of Held. Tucker discloses an apparatus for covering the rear portion of a golf cart having all of the elements stated previously. Tucker further discloses the flexible vinyl cover is attached to the horizontal portion of the stationary frame member; wherein the horizontal portion of the stationary frame member comprises two U-shaped bars (i.e. retainer bar strips with channels) that nest together

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effectively clamping the cover (Tucker: col. 3, lines 9-12), wherein the cover is sufficiently flexible to extend from the retaining bar strip and over a portion of the rear compartment of the golf cart when the movable frame member rotates over a portion of the rear compartment of the golf cart, thus meeting the limitations recited in claims 8 and 9. Tucker further discloses the use of fasteners including rivets and bolts for connecting the various elements of the apparatus to one another, as well as connection to the golf cart. Tucker does not expressly disclose an apparatus for covering the rear portion of a golf cart wherein the cover extends from the retainer bar strip and over a portion of the rear compartment of the golf cart when the movable frame member rotates over a portion of the rear compartment of the golf cart; a strap configured to restrain the cover adjacent to the stationary frame member to permit access to the rear compartment of the golf cart. Held teaches an apparatus for covering the rear portion of a golf cart (Figs. 1-8) having a cover (83) supported by a frame member structure (82) for movement therewith; means (112, 116, 180, 184, 186) consisting of conventional bolts and corresponding nuts for rapidly connecting and disconnecting a stationary frame members (74) to a support frame (56, 60) (as recited in claims 11 and 12); and VELCRO<sup>TM</sup> (hook and loop fastener) straps (192) to restrain the cover adjacent to the stationary frame member (Figs. 5 and 6) to permit access to the rear compartment of the golf cart (as recited in claim 10). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ all the elements, such as nuts and bolts and straps, as taught by Held, modifying the apparatus for covering the rear compartment of a golf cart disclosed by Tucker, thus providing an apparatus which is easily attached and detached from a golf cart, as well as durable and uncomplicated in structure (Held: col. 1, lines 33-38). In specific regards to method claims 13 and 14, both Tucker and Held

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disclose assembly steps and connections of the apparatus for covering the rear portion of golf cart. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the method steps disclosed by Tucker and Held, or any other logical method to assemble and attach the disclosed apparatus to the rear compartment of a golf cart.



9. Claims 16, 17 and 19-24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tucker as applied to claim 15 under 35 U.S.C. § 102(e) above, and further in view of Held. Tucker discloses an apparatus for mounting to a golf cart with a rear support frame which supports a portion of a hard roof cover for the golf cart having all of the elements stated previously. Tucker further discloses the use of fasteners including rivets and bolts for connecting the various elements of the apparatus to one another, as well as connection to the golf cart. Tucker does not expressly disclose an apparatus for mounting to a golf cart further comprising a cover retainer bar configured to slide within the channel recess to support a portion

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of the cover within the channel recess; a VELCRO™ strap tie-down configured to connect a portion of the cover to either the stationary main frame or the rear support frame when the movable frame is not rotated over a portion of the rear compartment of the golf cart. Held teaches an apparatus for mounting to a golf cart with a rear support frame (Figs. 1-8) having a cover (83) supported by a frame member structure (82) for movement therewith; a cover retainer bar (182) configured to slide within a channel recess of a cover retainer strip (168) to support a portion of the cover (159, 161) within the channel recess; means (112, 116, 180, 184, 186) consisting of conventional bolts and corresponding nuts for rapidly connecting and disconnecting a stationary frame members (74) to a support frame (56, 60) (as recited in claims 20 and 21); and VELCRO™ (hook and loop fastener) tie-down straps (192) to connect a portion of the cover to either the stationary main frame or the rear support frame when the movable frame is not rotated over a portion of the rear compartment of the golf cart (Figs. 5 and 6) (as recited in claims 17 and 19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ all the elements, such as nuts and bolts and straps, as taught by Held, modifying the apparatus for covering the rear compartment of a golf cart disclosed by Tucker, thus providing an apparatus which is easily attached and detached from a golf cart, as well as durable and uncomplicated in structure (Held: col. 1, lines 33-38). In specific regards to method claims 22-24, both Tucker and Held disclose assembly steps and connections of the apparatus for covering the rear portion of golf cart. It would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the method steps disclosed by Tucker and Held, or any other logical method to assemble and attach the disclosed apparatus to the rear compartment of a golf cart.

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*Conclusion*

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hale et al. teach a cover apparatus with movable members covering a portion of a boat; and JP 11216215 to Yamada teaches an apparatus for covering the rear compartment of a golf cart to a support frame having a cover held by cover retaining bars.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Fitzgerald whose telephone number is (703) 305-4851. The examiner can normally be reached on Monday-Friday from 7:00 AM to 3:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai, can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is (703)-872-9306. Any inquiry of a general nature relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-1113.



JF  
10/03/2003

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